

Exhibit 1. Declaration of Mohamed John Akhtar

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Mohamed John Akhtar and
La Buca Restaurant, Inc. d/b/a
Swing 46 Jazz and Supper Club,

Plaintiffs,

v.

Eric Adams, Mayor of the City of
New York, Rohit T. Aggarwala, New
York City Department of
Environmental Protection, Eric I.
Eisenberg, and John and Jane
Does One through Thirty,

Defendants.

Case No. 23-cv-6585 (JGLC)(VF)

Declaration of Mohammed John Akhtar

I, Mohammed John Akhtar, of full age, declares and affirms, under the penalty of perjury, to the truth of the following:

1. I am a resident of the City of New York and owner/operator of La Buca Restaurant, Inc., d/b/a Swing 46 Jazz and Supper Club (hereinafter "Swing 46").
1. I am making this statement at the request of my attorney in support of my Response in Opposition to Eric M. Eisenberg's (herein after "Eisenberg") Notice of Motion, dated November 27, 2023, to dismiss my complaint.

2. I was made aware by my attorney, Anthony N. Iannarelli Jr., that my response was due on December 27, 2023, and I realize my response is late. I apologize for the lateness, but I was overwhelmed with the holiday rush and several staff members were not able, unexpectedly, to come to work. Swing 46 is both a restaurant and entertainment club, and it is challenging to operate under normal circumstances.
3. I cannot fault my attorney for this delay, he made me aware of the due date in advance, and he called me more than once virtually every day to find out when we could meet to go over the case and the dismissal motion. I also wanted to connect him with witnesses that I thought might be useful in helping oppose the dismissal motion. Unfortunately, they were away for the holidays.
4. I have been a general manager at Swing 46, for over twenty-five years. Before I operated a club, I emigrated from Bangladesh; I am also a Muslim. I am neither ashamed of my national origin, nor religion. I am proud to be a United States citizen and a resident of New York. I am grateful for the opportunities I have benefited from in this community.
5. Swing 46 provides music and entertainment along what is known as "Restaurant Row." I am very pleased to serve both local customers and

tourists. The club also provides work and entertainment for musicians, singers, and dancers.

6. I am sorry to say the club is facing severe economic consequences because of fines imposed by the New York City Department of Environmental Protection (hereinafter "NYCDEP"). The fines result from summonses purported issued over noise complaints. The fines are exorbitant: over \$1,500.00 for the first offense, and over \$5,000.00 for the third. I believe I may have accumulated over \$30,000 in fines, a cost the club cannot afford. A citizen can file noise complaints and share the fine with the NYCDEP. In other words, a bounty system.
7. I have come to learn that an individual by the name of Eric Eisenberg (hereinafter "Eisenberg") has been responsible for most, if not all, of the noise complaints. I believe that he is specifically targeting me. He often prowls the street wearing a mask and his appearance is disturbing to myself and others. He has been told to stay off the property of Swing 46, but he repeatedly returns. (See attached photos of defendant Eisenberg.)
8. I myself, along with others, have seen Eisenberg very quickly walk across Swing 46's patio and place what appears to be a cell phone. When caught by others, Eisenberg claims he is collecting evidence to make noise

complaints. When I have encountered him, I immediately order him off the property, but he repeatedly returns.

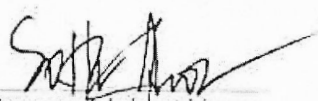
9. After receiving summonses, I have tried to argue against them through the NYCDHP. I have found that if I am lucky enough to get someone by phone, they are absolutely of no help. I have asked that a supervisor return my call, but no one ever did.

10. I came to learn there is a New York City Agency called OATH. It is the Office of Administrative Trials and Hearings. They are just as bad as the NYCDHP and virtually impossible to get someone on the phone. The one time I did get through, I asked for an adjournment so I could get an attorney. They said it would be OK, but then I got a notice of default.

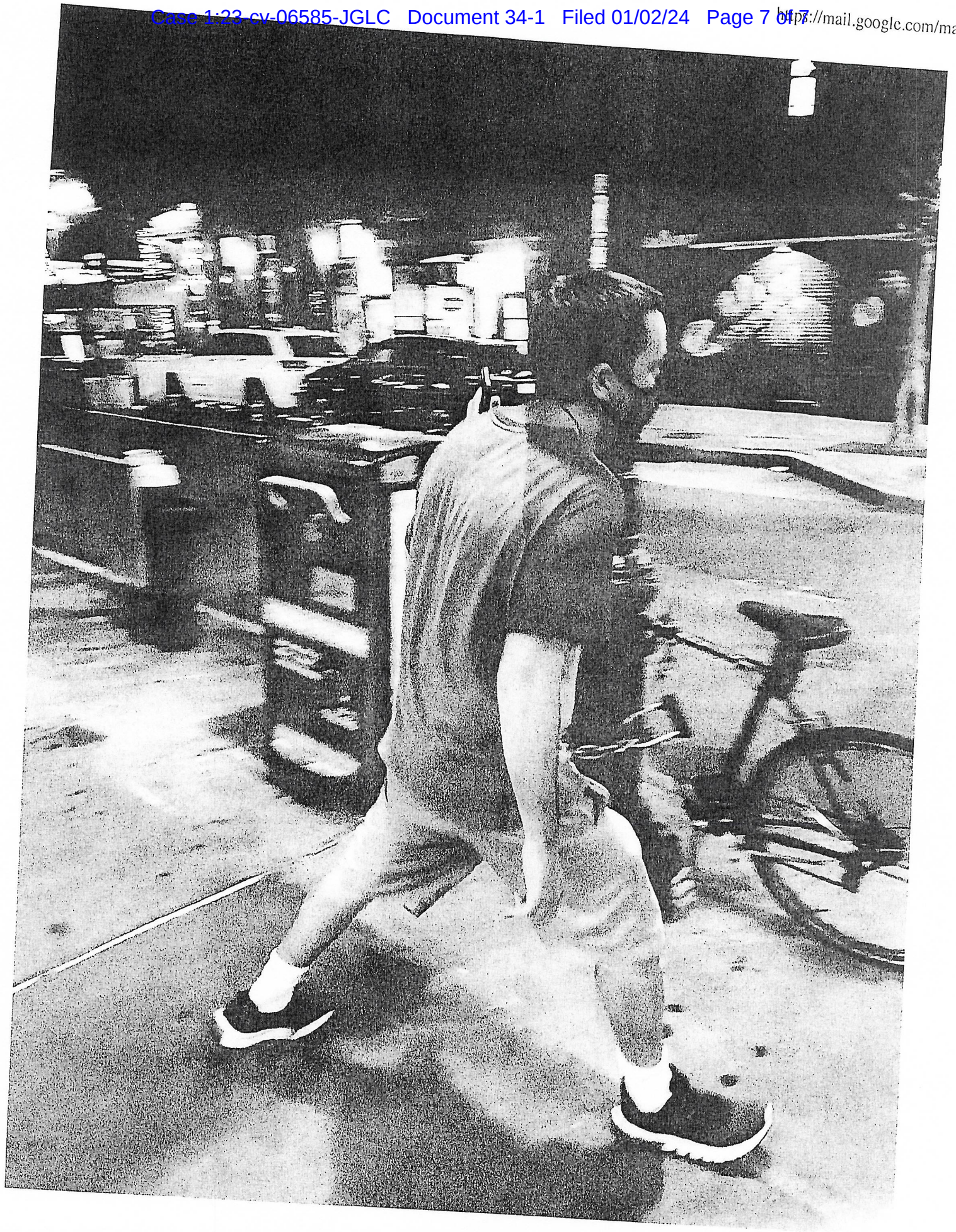
11. There is something very wrong going on. I cannot get an explanation for it, and I can't fight it. I have no idea why people are coming after me the way they have. Every day I am worried about my business and it is beginning to affect my health and wellbeing.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: December 31, 2023


Mohammed John Akhtar
Personally and in behalf of Swing 46





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